

MAY 24 2010

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

Gregory J. Kudasz *pro per*
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:10CV106-RLV-DSC

GREGORY J. KUDASZ,

Plaintiff,

vs.

MANATRON INC.,
GREGORY A. EFFREIN,

Defendants.

PLAINTIFF'S MOTION TO
DISMISS COUNTER-CLAIM

Fed. R. Civ. P. 12(b)(6)

MOTION TO DISMISS

Plaintiff GREGORY J. KUDASZ ("Kudasz") Per Rule 12(b)(6) of the Federal Rules of Civil Procedure moves that this Court dismiss the counterclaim of Defendants MANATRON INC., and GREGORY A. EFFREIN, *with prejudice* because the counterclaim fails to state a claim against Kudasz upon which relief can be granted.

Furthermore, the counter-complaint fails to comply with Federal Rules of Civil Procedure 8(a)(2) ("Rule 8") for the reasons set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 2009 LEXIS 3472 (2009).

1 In support of his motion, Kudasz submits his Memorandum in Support of his Motion to
2 Dismiss.

3 **MOTION TO STRIKE**

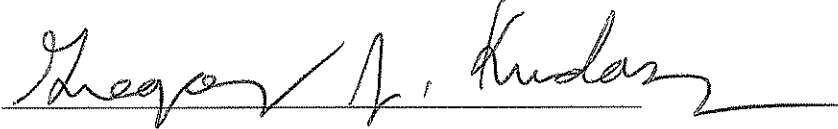
4 In alternate, if the counter-complaint is not dismissed, Kudasz moves the court pursuant
5 to Rule 12(f) of the Federal Rules of Civil Procedure that this Court strike certain paragraphs of
6 Defendants MANATRON INC., and GREGORY A. EFFREIN, counterclaim because they are
7 redundant, immaterial, impertinent, or scandalous matter. Specifically, Kudasz requests
8 paragraphs 56, 57, 58, 67, 68, 69, 70, 71, 72, 73, 74, 88, 89, 106, 107, 108, 110, 111, and 112
9 because they are not related to any of defendant's claims, are communications to defendant's
10 council as part of meet and confer, are included purely to harass and stymie Kudasz by adding
11 time and expense to respond to the counter-complaint, and to puff up counter-complaint that
12 would be nearly naked without them.

13 Kudasz also requests that paragraphs 11, 12, 13, 14, 15, 16, 17, be struck because the
14 reasons for Kudasz' dismissal are currently under investigation by Equal Employment
15 Opportunity Commission who has not issued a right to sue letter. Kudasz is at a disadvantage by
16 being required to respond in his answer because he is not allowed to litigate these issues during
17 the Commission's administrative proceedings.

18 Furthermore, paragraph 15 is inflammatory and only included to prejudice Kudasz to the
19 court. Defendants attach no supporting documents for this claim.

1 May 24, 2010

2 Respectfully Submitted,

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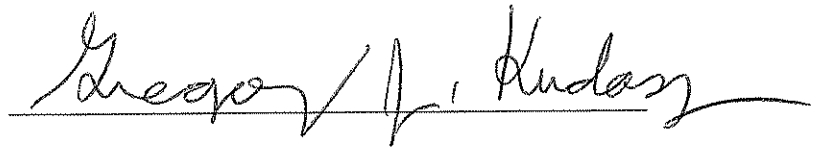
CERTIFICATE OF SERVICE

I, Gregory J. Kudasz, hereby certify that I have this day filed the foregoing **PLAINTIFF'S MOTION TO DISMISS COUNTER-CLAIM** with the Clerk of Court by appearing in person at the Federal Courthouse in Charlotte N.C. which will cause a notification of the filing through the CM/ECF system to the following:

Attorney for Defendants

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Dated this the 24th day of May, 2010.



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